

110TH CONGRESS  
2D SESSION

# H. R. 7240

To direct the Securities and Exchange Commission to issue rules regarding short selling of securities, to establish a net worth certificate program in the Federal Deposit Insurance Corporation, increase the maximum amount of depository insurance, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 2, 2008

Mr. DEFAZIO (for himself, Mr. JONES of North Carolina, Ms. KAPTUR, Mr. HULSHOF, Mr. SCOTT of Virginia, Mr. ABERCROMBIE, Ms. HIRONO, Ms. EDWARDS of Maryland, Mr. CONYERS, Mr. CUMMINGS, Ms. SUTTON, Mr. DELAHUNT, and Mr. JOHNSON of Georgia) introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To direct the Securities and Exchange Commission to issue rules regarding short selling of securities, to establish a net worth certificate program in the Federal Deposit Insurance Corporation, increase the maximum amount of depository insurance, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Bringing Accounting,  
5 Increased Liquidity, Oversight and Upholding Taxpayer

1 Security Act of 2008” or the “No BAILOUTS Act of  
2 2008”.

3 **SEC. 2. FINDINGS.**

4 Congress finds that—

5 (1) distinguished economists across the world  
6 have concluded the Secretary of the Treasury  
7 Paulson’s \$700 billion bailout will not resolve the li-  
8 quidity concerns facing the financial sector; and

9 (2) there are simple regulatory fixes to resolve  
10 the current financial industry liquidity concerns at  
11 little cost to the taxpayer.

12 **SEC. 3. S.E.C. REPORT ON APPLICATION OF ACCOUNTING**  
13 **RULES.**

14 The Securities and Exchange Commission shall re-  
15 port to Congress not later than 180 days after the date  
16 of enactment of this Act on the effect of the Commission’s  
17 clarification on fair value accounting issued September 30,  
18 2008.

19 **SEC. 4. PROHIBITION ON NAKED SHORT SELLING.**

20 (a) EXTENSION OF ORDER.—Notwithstanding the ef-  
21 fective date contained in the order of the Securities and  
22 Exchange Commission issued September 17, 2008 (Re-  
23 lease no. 34–58572) and the limitations contained in sec-  
24 tion 12(k)(2)(B) and (C) of the Securities Exchange Act

1 of 1934 (15 U.S.C. 78l(k)(2)(B) and (C)), such order  
2 shall continue in effect until—

3 (1) cancelled or withdrawn by the Commission;

4 or

5 (2) repealed by Act of Congress.

6 (b) PERMANENT RULE.—Not later than 180 days  
7 after the date of enactment of this Act, the Securities and  
8 Exchange Commission shall, by rule, make permanent the  
9 requirements contained in the order described in sub-  
10 section (a). Such rulemaking shall provide for the termi-  
11 nation of such order upon the effective date of such per-  
12 manent rule.

13 **SEC. 5. REINSTATEMENT OF UPTICK RULE ON SHORT**  
14 **SALES OF SECURITIES.**

15 Not later than 90 days after the date of enactment  
16 of this Act, the Securities and Exchange Commission  
17 shall—

18 (1) reinstate rule 10a–1 of the Commission’s  
19 rules (17 CFR 240.10a–1);

20 (2) rescind rule 201 of regulation SHO (17  
21 CFR 242.201); and

22 (3) take such other actions as may be necessary  
23 to reinstate the price test restrictions that applied to  
24 short sales of securities prior to the Commission’s  
25 action in the proceeding entitled “Regulation SHO

1 and Rule 10a-1”, adopted June 28, 2007 (Release  
2 No. 34–55970; File No. S7–21–06).

3 **SEC. 6. NET WORTH CERTIFICATE PROGRAM.**

4 (a) ESTABLISHMENT; PURPOSES.—

5 (1) ESTABLISHMENT.—As soon as possible  
6 after the date of the enactment of this Act, the  
7 Board of Directors of the Federal Deposit Insurance  
8 Corporation (hereafter in this section referred to as  
9 the “Corporation”) shall establish a net worth cer-  
10 tificate program under this section to provide capital  
11 to insured depository institutions (as such term is  
12 defined in section 3 of the Federal Deposit Insur-  
13 ance Act (12 U.S.C. 1813)) to assist such institu-  
14 tions to resolve solvency problems.

15 (2) PURPOSES.—The purposes of the net worth  
16 certificate program established under this section  
17 shall be—

18 (A) to improve the capital position of trou-  
19 bled insured depository institutions with real es-  
20 tate holdings;

21 (B) to provide such insured depository in-  
22 stitutions the ability to sell and restructure as-  
23 sets; and

24 (C) to assist such institutions in their re-  
25 covery without use of taxpayer funds.

1 (b) PRINCIPLES.—The net worth program estab-  
2 lished under this section shall—

3 (1) be based upon the Federal Savings and  
4 Loan Insurance Corporation net worth program es-  
5 tablished under title II of the Garn-St Germain De-  
6 pository Institutions Act of 1982 (Public Law 97–  
7 320; 96 Stat. 1489);

8 (2) be made available only for troubled financial  
9 depository institutions that the Corporation deter-  
10 mines could be financially viable if provided solvency  
11 assistance under the program;

12 (3) provide for the Corporation to purchase  
13 capital in troubled insured depository institutions in  
14 the form of subordinated debentures or net worth  
15 certificates in such institutions;

16 (4) provide that insured depository institutions  
17 participating in the program shall agree to such reg-  
18 ulations and terms of the program as the Corpora-  
19 tion shall provide, which shall include strict over-  
20 sight and supervision, including limitations on the  
21 compensation of senior executive officers of such in-  
22 stitutions and terms for removal of officers for poor  
23 management;

24 (5) provide that the Corporation shall fund net  
25 worth certificates under the program by issuance of

1 Corporation senior notes and obligations to partici-  
 2 pating insured depository institutions;

3 (6) provide that the interest rate on net worth  
 4 certificates issued under the program and the senior  
 5 notes and obligations issued under the program by  
 6 the Corporation shall be identical;

7 (7) not involve any subsidy, appropriation of  
 8 funds, or other cash outlay or use of taxpayer funds;

9 (8) provide that asset sale transactions under  
 10 the program be held in the private market.

11 (c) REGULATIONS.—The Board of Directors of the  
 12 Corporation shall prescribe any regulations necessary to  
 13 carry out the net worth certificate program established  
 14 under this section.

15 **SEC. 7. INCREASE IN MAXIMUM AMOUNT OF DEPOSIT IN-**  
 16 **SURANCE AND SHARE INSURANCE.**

17 (a) STANDARD MAXIMUM DEPOSIT INSURANCE  
 18 AMOUNT INCREASED.—Section 11(a) of the Federal De-  
 19 posit Insurance Act (12 U.S.C. 1821(a)) is amended—

20 (1) in subparagraph (E), by striking  
 21 “\$100,000” and all that follows through the end of  
 22 the subparagraph and inserting “\$250,000.”; and

23 (2) in subparagraph (F)(i)(I), by striking  
 24 “\$100,000” and inserting “\$250,000”.

1       (b)   STANDARD   MAXIMUM   SHARE   INSURANCE  
2   AMOUNT   INCREASED.—Section 207(k)(5) of the Federal  
3   Credit Union Act (12 U.S.C. 1787(k)(5)) is amended by  
4   striking “\$100,000” and inserting “\$250,000”.

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